

ALLTEL and Western Wireless are the cellular licensees. After the transaction, the merged entity would hold a total of 55 to 60 MHz of spectrum throughout the CMA (the levels vary by area in some counties due to partitioning of PCS licenses). ALLTEL and Western Wireless have launched service in all ten counties of the CMA and have network coverage in each county as well. Further, ALLTEL had a total of [REDACTED] mobile-to-mobile ports out in 2004 and [REDACTED] to Western Wireless ([REDACTED] percent of ALLTEL's ports). Western Wireless had a total of [REDACTED] mobile to mobile ports out in 2004 and [REDACTED] to ALLTEL ([REDACTED] percent of Western Wireless's ports).

Four carriers – Cingular, Nextel, Sprint, and T-Mobile – hold spectrum in all ten counties of the CMA, although T-Mobile holds only 5 MHz in three counties. Hamilton Wireless, Leap, NE Colorado, USCC, and Verizon hold spectrum in fewer than all counties. Also, Cingular and NE Colorado have entered into a spectrum manager lease agreement, and Cingular is leasing 30 MHz of spectrum to NE Colorado in one county and 10 MHz of spectrum in another county in this CMA. Eight other carriers have network coverage in this CMA (Cingular, Leap, NE Colorado, Nextel, Sprint, T-Mobile, USCC, and Verizon), but the network coverage of most of these carriers is less than ten percent of both the population and the land area of the CMA. Sprint and Nextel both have network coverage greater than 60 percent of the CMA population, and less than 40 percent of the land area.

*Conclusion.* The merger as proposed would involve merging the [REDACTED] and [REDACTED] largest providers in the CMA in terms of subscribers. Furthermore, the transaction would lead to [REDACTED] carrier having an [REDACTED] market share in this CMA. Among carriers with a market share greater than [REDACTED] percent in the CMA, the merger would reduce the number of facilities-based competitors from [REDACTED] to [REDACTED]. Other carriers do not have facilities or coverage in a large percentage of the CMA. Thus, we conclude on the basis of the record that there is a substantial risk that the transaction, without conditions, would lead to anticompetitive harms in the Nebraska 5 - Boone CMA.

#### **Nebraska 6 – Keith (CMA 538)**

In the Nebraska 6 – Keith CMA (which has a population of about 113,000), ALLTEL has [REDACTED] percent of the wireless subscribers, while Western Wireless has [REDACTED] percent of the subscribers; combining these entities would lead to a post-merger share of [REDACTED]. The other carriers with market share in this CMA are NE Colorado, with [REDACTED] percent of the subscribers, and Sprint with [REDACTED] percent. No other service providers have market share in this CMA.

The post-merger HHI in this CMA would be [REDACTED], an increase of [REDACTED] from the current figure. These numbers reflect that there would be a major change in the character of competition after the merger.

ALLTEL and Western Wireless are the two cellular licensees. They hold a total of 55 MHz of spectrum throughout the CMA. ALLTEL and Western Wireless have launched and provide network coverage in all five counties of the CMA. Further, ALLTEL had a total of [REDACTED] mobile-to-mobile ports out in 2004 and [REDACTED] to Western Wireless reflecting [REDACTED] percent of ALLTEL's ports. Western Wireless had a total of [REDACTED] mobile to mobile ports out in 2004 and [REDACTED] to ALLTEL reflecting [REDACTED] percent of Western Wireless's ports.

Six service providers also hold spectrum in all of the counties in this CMA – Cingular, Hamilton Wireless, NE Colorado, Nextel, Sprint, and T-Mobile, although T-Mobile holds only 5 MHz of spectrum throughout the CMA. Pinpoint Communications and Verizon hold spectrum in less than 5 counties in

this CMA. Also, Cingular and NE Colorado have entered into a spectrum manager lease agreement, and Cingular is leasing 30 MHz of spectrum to NE Colorado in three counties in this CMA. NE Colorado, Nextel, PinPoint, Sprint, T-Mobile, and Verizon have network coverage in this CMA. However only NE Colorado, Sprint, and T-Mobile's networks cover more than 25 percent of the population and none cover more than 12 percent of the CMA land area. Of these carriers only [REDACTED] has a market share greater than [REDACTED] percent.

*Conclusion.* The proposed merger would involve merging the [REDACTED] and [REDACTED] largest providers in the CMA in terms of subscribers. Furthermore, the transaction would lead to one carrier having an [REDACTED] market share in this CMA. Among carriers with a market share greater than [REDACTED] percent in the CMA, the merger would reduce the number of facilities-based competitors from [REDACTED] to [REDACTED]. In three of the CMA's counties the merger would result in three or fewer competitors providing network coverage. These counties reflect 32 percent of the CMA population. Although several carriers hold spectrum and have some network coverage in this CMA, one competitor has entered the CMA sufficiently to be an effective discipline on anticompetitive activity by the merged entity. Therefore, on the basis of the record, we conclude that there is a substantial risk that the transaction, without conditions, would lead to anticompetitive harms in the Nebraska 6 - Keith CMA.

#### Nebraska 7 - Hall (CMA 539)

In the Nebraska 7 - Hall CMA (which has a population of about 94,000), ALLTEL has [REDACTED] percent of the wireless subscribers, and Western Wireless has [REDACTED] percent of the subscribers; combining these entities would lead to a post-merger share of [REDACTED] percent. The other carriers with market share in this CMA are Sprint, with [REDACTED] percent of the subscribers, NE Colorado with [REDACTED] percent, and Nextel with [REDACTED] percent. No other service providers have market share in this CMA.

The post-merger HHI in this CMA would be [REDACTED], an increase of [REDACTED] from the current figure. These numbers reflect that there would be a major change in the character of competition after the merger.

ALLTEL and Western Wireless are the two cellular licensees. After the transaction the merged entity would hold a total of 55 MHz of spectrum throughout the CMA. ALLTEL and Western Wireless have launched in all four counties of the CMA and they provide network coverage throughout the CMA. Further, ALLTEL had a total of [REDACTED] mobile-to-mobile ports out in 2004 and [REDACTED] to Western Wireless reflecting [REDACTED] percent of ALLTEL's ports. Western Wireless had a total of [REDACTED] mobile to mobile ports out in 2004 and [REDACTED] to ALLTEL reflecting [REDACTED] percent of Western Wireless's ports.

Six service providers also hold spectrum in all of the counties in this CMA -- Cingular, NE Colorado, Nextel, Sprint, T-Mobile, and Verizon, although T-Mobile holds 5 MHz of spectrum throughout the CMA. Hamilton Wireless, Leap, and USCC hold spectrum in two counties each. Also, Cingular and NE Colorado have entered into a spectrum manager lease agreement, and Cingular is leasing 30 MHz of spectrum to NE Colorado in two counties and 20 MHz in two counties in this CMA. NE Colorado, Nextel, and Sprint provide network coverage that reaches upward of 90 percent of the population and two-thirds of the land area in the CMA. However, the largest competitor to the Applicants, [REDACTED], has just over a [REDACTED] percent market share.

*Conclusion.* The proposed transaction would combine the [REDACTED] and [REDACTED] largest providers in the CMA in terms of subscribers, and the merged entity would have [REDACTED] percent of the subscribers. Among carriers with a market share greater than [REDACTED] percent in the CMA, the merger would reduce the number of facilities-based competitors from [REDACTED] to [REDACTED]. As a result of the [REDACTED] market share of the merged entity and the relative lack of competition to gain subscribers from other providers, we conclude, on the basis of the record, that there is a substantial risk that the transaction, without conditions, would lead to anticompetitive harms in the Nebraska 7 - Hall CMA.

#### **Nebraska 8 – Chase (CMA 540)**

In the Nebraska 8 - Chase CMA (which has a population of about 56,500), ALLTEL has [REDACTED] percent of the wireless subscribers, while Western Wireless has [REDACTED] percent of the subscribers; combining these entities would lead to a post-merger share of [REDACTED] percent. The only other carrier with market share in this CMA is PinPoint Communications with [REDACTED] percent of the subscribers. No other service providers have market share in this CMA.

The post-merger HHI in the Chase CMA would be [REDACTED], constituting an increase of [REDACTED] from the current figure. These numbers reflect that there would be a major change in the character of competition after the merger.

ALLTEL and Western Wireless are the two cellular licensees. They hold a total of 60 MHz of spectrum throughout the CMA. ALLTEL and Western Wireless have launched service in all 12 counties of the CMA and have network coverage throughout the CMA. Further, ALLTEL had a total of [REDACTED] mobile-to-mobile ports out in 2004 and [REDACTED] to Western Wireless (reflecting [REDACTED] percent of ALLTEL's ports). Western Wireless had a total of [REDACTED] mobile-to-mobile ports out in 2004 and [REDACTED] to ALLTEL ([REDACTED] percent of Western Wireless's ports).

Six service providers also hold lesser amounts of spectrum in all of the counties in this CMA – Cingular, NE Colorado, Nextel, PinPoint Communications, Sprint, and T-Mobile, although T-Mobile holds only 5 MHz of spectrum throughout the CMA. Also Hamilton Wireless holds spectrum in one county out of 12 in the CMA. Pinpoint Communications has a network that covers approximately 36 percent of the population and 23 percent of land area of the CMA. NE Colorado, Nextel, Sprint, and T-Mobile have networks that cover less than 20 percent of the population and 12 percent of the land area.

*Conclusion.* The proposed transaction would combine the [REDACTED] and [REDACTED] largest providers in the CMA in terms of subscribers. Among carriers with a market share greater than [REDACTED] percent in the CMA, the merger would reduce the number of facilities-based competitors from [REDACTED] to [REDACTED]. The merged entity would have [REDACTED] percent of the subscribers in the CMA and 11 of 12 counties, reflecting 88 percent of the population, would have three or fewer providers. Further, it does not appear that any other carrier has sufficient facilities in place to respond quickly and effectively to anticompetitive actions by the merged entity. Therefore we conclude on the basis of the record that there is a substantial risk that the transaction, without conditions, would lead to anticompetitive harms in the Nebraska 6 - Keith CMA.

**Nebraska 9 – Adams (CMA 541)**

In the Nebraska 9 - Adams CMA (which has a population of about 82,000), ALLTEL has [REDACTED] percent of the wireless subscribers, while Western Wireless has [REDACTED] percent of the subscribers; combining these entities would lead to a post-merger share of [REDACTED] percent. The other carriers with subscribers in this CMA are Sprint, with [REDACTED] percent of the subscribers, NE Colorado with [REDACTED] percent, and Nextel with [REDACTED] percent. No other service providers have market share in this CMA.

The post-merger HHI in the Adams CMA would be [REDACTED] and the change from the current figure would be [REDACTED]. These numbers reflect that there would be a major change in the character of competition after the merger.

ALLTEL and Western Wireless are the two cellular licensees. They hold a total of 55 MHz of spectrum throughout the CMA. ALLTEL and Western Wireless have launched service in all eight counties of the CMA and have network coverage throughout the CMA. Further, ALLTEL had a total of [REDACTED] mobile-to-mobile ports out in 2004 and [REDACTED] to Western Wireless ([REDACTED] percent of ALLTEL's ports). Western Wireless had a total of [REDACTED] mobile-to-mobile ports out in 2004 and [REDACTED] to ALLTEL ([REDACTED] percent of Western Wireless's ports).

Four service providers also hold spectrum in all of the counties in this CMA – Cingular, Nextel, Sprint, and T-Mobile, although T-Mobile holds only 5 MHz of spectrum throughout the CMA. Leap, NE Colorado, PinPoint, USCC, and Verizon hold lesser amounts of spectrum in half of the counties. Also, Cingular and NE Colorado have entered into a spectrum manager lease agreement, and Cingular is leasing 30 MHz of spectrum to NE Colorado in one county in the CMA. NE Colorado, Nextel, Sprint, and T-Mobile have network coverage in portions of the CMA, but only NE Colorado's network reaches even half of the CMA population. The other three carriers' networks reach between 35 to 40 percent of the population, and none of the other four carriers reaches more than just over 20 percent of the land of the CMA.

*Conclusion.* The proposed transaction would merge the [REDACTED] and [REDACTED] largest providers in the CMA in terms of subscribers. The merged entity would have [REDACTED] percent of the subscribers in the CMA, and no other carrier holds greater than a [REDACTED] percent market share. In six of the eight counties, reflecting 54 percent of the CMA population, this transaction would create a monopoly in terms of network coverage. It does not appear that any other carrier has sufficient facilities in place to respond quickly and effectively to anticompetitive actions by the merged entity. Therefore, on the basis of the record, we conclude that there is a substantial risk that the transaction, without conditions, would lead to anticompetitive harms in the Nebraska 9 – Adams CMA.

**Nebraska 10 – Cass (CMA 542)**

In the Nebraska 10 - Cass CMA (which has a population of about 87,000), ALLTEL has [REDACTED] percent of the wireless subscribers, while Western Wireless has [REDACTED] percent of the subscribers; combining these two entities would lead to a post-merger share of [REDACTED] percent. The other carriers with subscribers in this CMA are Sprint, with [REDACTED] percent of the subscribers, Nextel with [REDACTED] percent and Cingular with [REDACTED] percent. No other service providers have market share in this CMA.

The post-merger HHI in the Cass CMA would be [REDACTED] and the change from the current figure would be [REDACTED]. These numbers reflect that there would be a major change in the character of competition after the merger.

ALLTEL and Western Wireless are the two cellular licensees. They hold a total of 55 to 60 MHz of spectrum throughout the CMA. ALLTEL and Western Wireless have launched service in all seven counties of the CMA and have network coverage throughout the CMA. ALLTEL had a total of [REDACTED] mobile-to-mobile ports out in 2004 and [REDACTED] to Western Wireless ([REDACTED] percent of ALLTEL's ports). Western Wireless had a total of [REDACTED] mobile-to-mobile ports out in 2004 and [REDACTED] to ALLTEL ([REDACTED] percent of Western Wireless's ports).

Seven service providers also hold lesser amounts of spectrum in all seven counties in this CMA – Cingular, Leap, Nextel, Sprint, T-Mobile, and USCC, although T-Mobile holds only 5 MHz of spectrum in three of eight counties, and Verizon holds spectrum in five of the seven counties. All of the carriers holding spectrum have launched service in at least one county and have some network coverage in the CMA. Only Nextel's network reaches more than 50 percent of the CMA population, and slightly more than 40 percent of the land area although it has less than [REDACTED] percent of the subscribers. The remaining carriers' networks cover less than 35 percent of the population and less than 20 percent of the land area of this CMA.

*Conclusion.* The proposed transaction would involve merger of the [REDACTED] and [REDACTED] largest providers in the CMA in terms of subscribers. The merged entity would have [REDACTED] percent of the subscribers in the CMA, and no other carrier holds greater than a [REDACTED] percent market share. In six of the seven counties, reflecting 72 percent of the CMA population, this transaction would result in three or fewer carriers with network coverage. In four of those counties, the transaction would represent a merger to monopoly. It does not appear that any other carrier has sufficient facilities in place to respond quickly and effectively to anticompetitive actions by the merged entity. Therefore, on the basis of the record, we conclude that there is a substantial risk that the transaction, without conditions, would lead to anticompetitive harms in the Nebraska 10 – Cass CMA.

**APPENDIX D**  
**MARKET-SPECIFIC ANALYSIS OF MARKETS NOT INVOLVING DIVESTITURE**

**Lincoln, NE (CMA 172)**

In the Lincoln, Nebraska, CMA (which consists of a single county and has a population of about 250,000), ALLTEL has [REDACTED] percent of the wireless subscribers while Western Wireless has [REDACTED] percent; if these two entities were combined, this would lead to a post-merger share of [REDACTED] percent. There are six other carriers in this CMA with market share greater than [REDACTED] percent. The other carriers with market share in this CMA are Sprint, with [REDACTED] percent of the subscribers, Cingular with [REDACTED] percent, Leap with [REDACTED] percent, and Nextel with [REDACTED] percent. ALLTEL's and Western Wireless's market shares have [REDACTED] from the previous six month period by approximately [REDACTED] and [REDACTED] percent respectively, and we believe that given structural changes in this and adjacent markets, that it is likely that the combined entity's market share will continue to [REDACTED] in the future.

The post-merger HHI in the CMA would be [REDACTED], with an increase of [REDACTED] from the current figure. Based on the additional analysis below, however, we conclude that the level of competition in this CMA, post-transaction, would be more robust than the HHI figures suggest for several reasons.

ALLTEL and Western Wireless are the cellular licensees. The merged entity would hold 50 MHz throughout the CMA. ALLTEL and Western Wireless have launched service and have network coverage throughout the CMA. ALLTEL had a total of [REDACTED] mobile-to-mobile ports out in 2004 and [REDACTED] to Western Wireless (reflecting [REDACTED] percent of ALLTEL's ports). Western Wireless had a total of [REDACTED] mobile to mobile ports out in 2004 and [REDACTED] to ALLTEL ([REDACTED] percent of Western Wireless's ports).

Six additional licensees hold spectrum throughout the entire CMA. Cingular holds 45 MHz throughout the CMA (almost as much as the Applicants combined), Sprint holds 30 MHz, Leap holds 15 MHz, T-Mobile holds 10 MHz, USCC holds 10 MHz, and Verizon holds 10 MHz.<sup>421</sup> All of the licensees in the market, with the exception of Verizon, have network coverage in this CMA. These six licensees' networks cover more than 90 percent of the population of the CMA. The four nationwide carriers (Cingular, Nextel, Sprint, and T-Mobile) have networks that cover 37 to 86 percent of the land area of the CMA. The two other carriers, Leap and USCC, cover approximately 25 percent and 45 percent of the land area, respectively. Also, USCC entered the Lincoln CMA in July 2004,<sup>422</sup> and we believe it could become an effective competitor to the merged entity in a relatively short time frame. USCC offers service in the Omaha CMA (north and east of Lincoln) and it has [REDACTED] market share and coverage in Iowa. Further, USCC is known primarily as a regional carrier that builds out and serves rural markets. For these reasons, we believe USCC's coverage and market share in the Lincoln CMA will

<sup>421</sup> Throughout this analysis, we do not report spectrum holdings for Nextel. Nextel's spectrum has been licensed in a fashion different than that for the other carriers considered here, its spectrum holdings are significantly more difficult to identify for individual local areas, and its holdings may be changing in the relatively near future as a result of other regulatory proceedings. Nationwide, Nextel holds an average of almost 20 megahertz of bandwidth. For large markets, we presume that Nextel's capacity is 20 megahertz. For smaller markets, we judge Nextel's potential competitive influence by reviewing coverage maps and current market shares.

<sup>422</sup> See USCC Corporate Press Release, U.S. Cellular Enters Lincoln Market, July 13, 2004.

grow over time.

Despite the number of firms in this market that have networks that cover the majority of the population, ALLTEL and Western Wireless continue to hold a [REDACTED] share of the market. The persistence of the two firms' first-mover advantage may be, at least in part, explained by their [REDACTED] market shares in adjacent CMAs. Customers demand coverage over a combination of CMAs in eastern and central Nebraska,<sup>423</sup> and customers in the Lincoln CMA subscribe to either ALLTEL or Western Wireless in order to obtain facilities-based coverage in adjacent CMAs. There are nine CMA markets in eastern and central Nebraska for which divestiture is being required, and these nine markets are to be sold to a single buyer.<sup>424</sup> Given that many customers demand coverage over a combination of CMAs, and the other current licensees in the Lincoln, NE CMA have already invested in that market, we believe it is likely that one of the other current licensees will purchase these divestiture assets in the neighboring markets. If one of these other licensees from the Lincoln, NE CMA purchases these divestiture assets, it is likely that this carrier would gain market share rapidly in the Lincoln CMA because it will be able to offer extensive facilities-based coverage throughout eastern and central Nebraska.

*Conclusion.* Although the transaction would lead to a [REDACTED] market share for the merged entity, six other carriers, including four nationwide carriers have extensive network coverage that should enable them to respond effectively to anticompetitive actions by the merged entity. The proposed transaction, which would combine the [REDACTED] and [REDACTED] largest carriers in terms of market share, would only decrease the number of carriers with a greater than [REDACTED] percent share from [REDACTED] to [REDACTED]. Further, USCC entered the market only a year ago, and may have eroded the Applicants' market share. Also six out of seven licensees have networks that cover more than 90 percent of the CMA population. These carriers also appear to have sufficient capacity to absorb customers if the merged entity were to raise price or reduce service following the transaction. In addition, while Verizon does not have network coverage in the Lincoln CMA, it holds spectrum throughout and has already launched service in adjacent CMAs; it would have an incentive to build out its network and launch service if the Lincoln CMA became less competitive. Because several carriers have the ability to respond to anticompetitive actions by the merged entity, it appears that the transaction is not likely to result in competitive harms in the Lincoln, NE, CMA. Finally, the divestitures required in the nine Nebraska CMAs may also increase the competitiveness of the Lincoln CMA. If one of the carriers that holds a license in this CMA acquires the Nebraska divestiture markets, it may become a more effective competitor to the merged entity because it will be able to offer extensive facilities-based coverage throughout eastern and central Nebraska.

#### Missouri 9 – Bates (CMA 512)

In the Missouri 9 – Bates CMA (which has a population of about 82,500), Western Wireless has [REDACTED] percent of the wireless subscribers, while ALLTEL has [REDACTED] percent; if combined, these two entities would have a post-merger share of [REDACTED] percent. Even after the transaction, Cingular would continue to have the [REDACTED] market share with [REDACTED] percent of the CMA's wireless subscribers. In addition, T-Mobile has a [REDACTED] percent market share, and Sprint has a [REDACTED] percent share.

<sup>423</sup> DOJ Competitive Impact Statement at 12-13.

<sup>424</sup> See DOJ Proposed Final Judgment at 10.

The post-merger HHI in the CMA would be [REDACTED] and the change from the current figure would be [REDACTED]. As explained below, the level of competition in this CMA, post-transaction, would be more robust than the HHI figures suggest for several reasons.

ALLTEL holds 35 MHz of spectrum in only two of the five counties in this CMA. Western Wireless holds 30 to 35 MHz of spectrum throughout the CMA. Together, the merged entity would hold 70 MHz in one county, 65 MHz in a second, and 35 MHz in the remaining three counties. ALLTEL and Western Wireless have network coverage throughout their licensed service areas. ALLTEL had a total of [REDACTED] mobile-to-mobile ports out in 2004. Western Wireless had a total of [REDACTED] mobile to mobile ports out in 2004 and [REDACTED] to ALLTEL.

Cingular holds cellular spectrum in the three counties where ALLTEL holds no spectrum and its spectrum holdings in this CMA range from 20 to 45 MHz. Sprint and T-Mobile hold spectrum in every county of the CMA, and Leap, USCC, and Verizon hold spectrum in some of the counties in the CMA.<sup>425</sup> Cingular has network coverage reaching 83 percent of the population and over 75 percent of the land area of the CMA. Sprint and T-Mobile networks cover more than 50 percent of the population and 25 percent of the land area. Nextel's network covers 30 percent of the population and 14 percent of the land area, while Verizon and USCC cover less than two percent of the population and less than three percent of the land area.

*Conclusion.* Although the transaction would lead to a [REDACTED] market share for the merged entity in the CMA, four other competing carriers already have extensive network coverage in this CMA. Three of the carriers – [REDACTED]– have [REDACTED] subscriber share that should enable them to respond effectively to anticompetitive actions by the merged entity, and this transaction will decrease the number of carriers with a greater than [REDACTED] percent share from [REDACTED] to [REDACTED]. While this transaction would combine the number [REDACTED] and the number [REDACTED] firm in terms of market share, the other carriers in the CMA appear to have sufficient capacity to absorb customers if the merged entity were to raise prices or reduce service following the transaction. As a result, it appears that the transaction is not likely to result in competitive harms in the Missouri Bates CMA.

#### **Texas 7 – Fannin (CMA 658)**

In the Texas 7 – Fannin CMA (which has population of more than 390,000), Western Wireless has [REDACTED] percent of the wireless subscribers, while ALLTEL has [REDACTED] percent; if these entities were combined, it would lead to a post-merger share of [REDACTED] percent. The other carriers with market share in this CMA are Cingular with [REDACTED] percent of the subscribers, Sprint, with [REDACTED] percent, Verizon with [REDACTED] percent, Nextel with [REDACTED] percent, and T-Mobile with [REDACTED] percent.

The post-merger HHI in this CMA would be [REDACTED], a change of [REDACTED] from the current figure. Based on the additional analysis below, however, we conclude that the level of competition in this CMA, post-transaction, would be more robust than the HHI figures suggest for several reasons.

ALLTEL does not hold spectrum in nine of the 15 counties in Texas 7 – Fannin. In the remaining six counties it holds 35 MHz in one county and 25 MHz in five others. Western Wireless

<sup>425</sup> These figures incorporate spectrum won during the recent Auction No. 58.

holds varying amounts of spectrum throughout the CMA. The merged entity would hold 70 MHz in two counties, 60 MHz in four, 45 in two, 35 MHz in six, and 30 MHz in one. ALLTEL and Western Wireless have network coverage throughout their licensed service areas, therefore the facilities-based overlap area for the merged entity is limited to the nine counties where ALLTEL holds spectrum, and these nine counties reflect only 26 percent of the CMA population. ALLTEL had a total of [REDACTED] mobile-to-mobile ports out in 2004 and [REDACTED] to Western Wireless ([REDACTED] percent of ALLTEL's ports). Western Wireless had a total of [REDACTED] mobile to mobile ports out in 2004 and [REDACTED] to ALLTEL ([REDACTED] percent of Western Wireless's ports).

In addition to the Applicants, Cingular, Sprint, and Verizon hold spectrum throughout the entire CMA. Of these, Cingular holds almost as much spectrum, ranging from 20 to 65 MHz, as the merged entity would hold. T-Mobile holds spectrum in 12 counties, although in one of these counties only holds 5 MHz of spectrum. Three carriers – Peoples Wireless, ETEX, and Lamar Cellular – hold cellular licenses in parts of some counties in the CMA. Finally, Choice Wireless holds spectrum in one county in this CMA.

Four of the nationwide carriers (Cingular, Nextel, Sprint, and Verizon) have networks that cover over 40 percent of the population and over 25 percent of the land area of the CMA. In addition, T-Mobile's network covers slightly less than 30 percent of the population and 14 percent of the land area of the CMA. Also Lamar Cellular and Peoples have networks that cover less than 10 percent of the population and less than 12 percent of the land area of the CMA. In the overlap area, Nextel and Sprint cover more than 40 percent of the population and more than 25 percent of the land area, while Cingular, Peoples, and Verizon cover more than 20 percent of the population and between 13 and 25 percent of the land area. However, there are three counties where ALLTEL offers facilities-based service where this is a three to two or a two to one deal, and these counties reflect only 14 percent of the CMA population.

*Conclusion.* Although the transaction would lead to a [REDACTED] market share for Applicants in the CMA, four of the nationwide carriers have extensive network coverage throughout the CMA. While this transaction, which would combine the number [REDACTED] and the number [REDACTED] firm in terms of market share, would decrease the number of carriers with a greater than [REDACTED] percent share from [REDACTED] to [REDACTED], the other carriers in the CMA appear to have sufficient capacity to absorb customers if the merged entity raises prices or reduces service following the transaction. We note that three competing carriers – [REDACTED] – have [REDACTED] subscriber share that should enable them to respond effectively to anticompetitive actions by the merged entity. These carriers appear to have sufficient capacity to absorb customers if the merged entity were to raise prices or reduce service following the transaction. As a result, it appears that the transaction is not likely to result in competitive harms in the Texas 7 - Fannin, CMA.

**STATEMENT OF  
COMMISSIONER KATHLEEN Q. ABERNATHY**

*Re: Applications of Western Wireless Corporation and ALLTEL Corporation For Consent to Transfer Control of Licenses and Authorizations, WT Docket No. 05-50, Memorandum Opinion and Order.*

I fully support today's decision to allow the creation of what I believe will be a stronger wireless competitor in rural areas – a company that will be uniquely situated to help speed the deployment of advanced wireless services to an increased number of consumers throughout America. Approval of this transaction, with the conditions we have imposed, is consistent with this Commission's commitment to rural America and to ensuring that consumers everywhere have access to advanced services.

While I appreciate the concerns raised with respect to the Applicants' ability to comply with the E911 deployment rules, I do not believe that such concerns are specific to this transaction. Making sure consumers have access to E911 services remains one of my – and the Commission's – top priorities. But any concerns regarding compliance with future deadlines are more appropriately addressed in the context of either specific requests for waiver or industry-wide requests for relief of our E911 rules.

**STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

*RE: Applications of Western Wireless Corporation and ALLTEL Corporation For Consent to Transfer of Control of Licenses and Authorizations (Memorandum Opinion & Order).*

The data compiled by FCC staff indicates that effectuation of this merger will likely leave an acceptable level of wireless market competition in most affected geographic areas. The applicants' networks overlap in only 27 markets nationwide. The Commission requires divestiture of nearly 60% of these markets, where the merger would have undermined competition.

In most of the remaining overlap markets four or more able competitors will continue to compete post-merger. In the rest the merger will not substantially change the competitive dynamic of the market at issue because one applicant has little or no market share. I am concerned that in a few markets, the market shares of remaining competitors are small compared with that of the merged entity. But these competitors have spectrum resources and built-out facilities that should enable them to take customers from the merged entity should the latter raise prices or reduce quality. But if we receive evidence in the future that smaller competitors cannot respond in this way because of the power of the market-share leader, the Commission will have to reconsider its reliance on this theory, which remains untested in the new wireless environment.

This market-by-market analysis is only one part of our merger review process. The FCC must also judge whether the merged entity will act in the public interest and whether the applicants have the requisite "citizenship, character, financial, technical, and other qualifications." Compliance with public safety protections is central to the public interest and to a company's qualifications. Americans increasingly rely on mobile phones for emergency calls. Therefore compliance with our 911 rules is of the utmost importance, especially at a time when homeland security must be a top priority for both our government and our companies and the threats to public safety are again so manifest. FCC Rules require that by December 31, 2005 ninety-five percent of the applicants' customers must have handsets that can locate a caller in an emergency. I am deeply troubled by the applicants' recent admission that they will likely fail to meet this responsibility and that they may, in fact, miss our public safety deadline by *two years*.

The Order states that if the company fails to meet its E-911 deployment responsibilities the Commission "will not hesitate to take enforcement action." While that is positive, I believe we should have gone beyond this assertion to *insist* that the merged company immediately get itself on a path to full public safety compliance. Because we do not, we could lose valuable time and E-911 deployment might suffer. I am disappointed that we do not do more today to ensure compliance with our public safety deadline.

**STATEMENT OF  
COMMISSIONER JONATHAN S. ADELSTEIN**

*Re: Applications of Western Wireless Corporation and ALLTEL Corporation For Consent to Transfer of Control of Licenses and Authorizations; WT Docket No. 05-50*

Western Wireless and ALLTEL have demonstrated a sincere commitment to providing the latest wireless technologies and services to traditionally underserved customers, particularly those in rural America. Coming from South Dakota, I am well aware of the challenges associated with providing mobile wireless services in the Great Plains and other less populated areas of the country. I fully approve this merger because I believe it will allow ALLTEL to be a stronger, more vibrant carrier capable of providing more comprehensive and advanced mobile wireless services to its customers, no matter where they live.

Of course, a merger like this requires a thorough public interest review to ensure that we do not inadvertently disadvantage the very communities we are trying to protect. An unchecked merger could harm the competitive environment in some communities in ways that the market is unlikely to overcome. I applaud the Commission staff for conducting a thorough analysis of the markets potentially affected by the merger, and I fully support our decision to require divestiture in the markets identified in our Memorandum Opinion and Order.

I do have one area of concern that is associated more with the overall trend of consolidation in the mobile wireless industry rather than the specific merger before us. During the past year, we have regularly heard from smaller mobile wireless companies that are concerned about their ability to negotiate automatic roaming contracts with the larger regional and nationwide carriers. These concerns also came up both in the record of this merger as well as in the Cingular-AT&T Wireless acquisition completed last year.

I think the time is right for the Commission to accumulate a full record on the roaming issue to determine what, if any, action may be needed. So, I am very pleased that the Chairman has agreed to initiate shortly a proceeding that will explore the issue of roaming and the effects of consolidation on the ability of smaller carriers to negotiate access to larger networks. This is a positive development, and I am pleased that we can begin a formal review of this matter in the very near term.

Finally, there has been some good discussion during the last few days of our deliberation regarding the merger and its possible impact on ALLTEL's compliance with the upcoming E911 handset penetration deadline. I appreciate the efforts of Commissioner Copps in raising this important issue. As the mobile wireless industry is well aware, the entire Commission takes E911 compliance very seriously particularly given the increasingly important role of E911 in our nation's homeland security efforts.

While I am troubled by ALLTEL's apparent difficulty in reaching the 95% penetration level by December 31, 2005, I acknowledge the recent commitment to timely address these challenges and to ensure that the merged company remains on a "path to full compliance." Also, the record contains a number of support letters on ALLTEL's behalf from public safety and governmental organizations including filings from officials leading the state government wireless E911 deployment efforts in North Carolina, South Carolina, and Virginia. Ultimately, I believe that issues regarding ALLTEL's handset compliance problem can be addressed through our existing rules and regulations, an area in which we have not hesitated to take specific enforcement action when appropriate during the past several years.